

Settlement/Hearing: August 23<sup>rd</sup>, 2017  
Time: 10:00 A.M.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 17-22520 RDD

**BENJAMIN P. BONGIOVI,**

**NOTICE OF SETTLEMENT**

Debtor(s)

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**PLEASE TAKE NOTICE**, that an *Order*, a true copy of which is annexed hereto, will be presented for signature to the Hon. Robert D. Drain, United States Bankruptcy Judge, on the 23<sup>rd</sup> day of August, 2017 at 10:00 A.M. at the United States Bankruptcy Court, 300 Quarropas Street, White Plains, New York.

Hearings on Objections, if any, to be conducted same place, date and time.

Written objections or counterorders must be submitted to chambers by no later than close of business *three (3) days prior* to settlement.

Dated: White Plains, New York  
July 5<sup>th</sup>, 2017

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir (JLS0938)**  
**Chapter 13 Trustee**  
**399 Knollwood Road**  
**White Plains, New York 10603**  
**Chapter 13 Tel. No. 914-328-6333**

TO: United States Trustee  
201 Varick Street #1006  
New York, New York 10014

Benjamin P. Bongiovi  
10 Ridgeview Avenue  
White Plains, New York 10606

Daniel W. Nieroda, Esq.  
320 Carleton Avenue # 6400  
Central Islip, New York 11722

PHH Mortgage Corporation  
c/o Shapiro DiCaro & Barak, LLC  
One Huntington Quadrangle #3N05  
Melville, New York 11747

PHH Mortgage Corporation  
One Mortgage Way  
MailStop SV01  
Mt. Laurel, New Jersey 08054

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13

Case No. 17-22520 RDD

**BENJAMIN P. BONGIOVI,**

Debtor(s)

-----X

**ORDER DISMISSING CHAPTER 13 CASE**

The chapter 13 trustee having moved, on due notice, for an order dismissing this chapter 13 case; and, upon the motion and the record of the August 23, 2017 hearing thereon, the Court having found that the above-captioned debtor has failed to comply with 11 U.S.C. §1307(c)(1) and 11 U.S.C. §521(e)(2)(A)(i), having created unreasonable delay that is prejudicial to creditors, having failed to submit seven days before the §341(a) meeting of creditors, Federal and New York State tax returns for certain of the most recent tax years prior to filing; and the Court also having found that the debtor's chapter 13 plan is not feasible and that the debtor is unable to confirm a plan; and good cause appearing.

**IT IS ORDERED THAT:**

This chapter 13 case is hereby dismissed. The chapter 13 trustee shall take all actions required by the dismissal of this case.

Dated: White Plains, New York  
August , 2017

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**UNITED STATES BANKRUPTCY JUDGE**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 17-22520 RDD

**BENJAMIN P. BONGIOVI,**

**TRUSTEE'S AFFIDAVIT**

Debtor(s)

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STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER    )   ss.:

Jeffrey L. Sapir, being duly sworn, deposes and says:

1.     He is the standing Chapter 13 Trustee.
2.     The debtor filed a Chapter 13 proceeding on April 5<sup>th</sup>, 2017
3.     A hearing on confirmation was held on June 28<sup>th</sup>, 2017.
4.     The debtor failed to comply with the provisions of 11 U.S.C. §1307(c)(1).
5.     The debtor is in violation of §521(e)(2)(A)(i) of the Bankruptcy Code which

requires the debtor to provide *seven (7) days prior to the §341(a) meeting of creditors* ,copies of federal and state tax returns for certain of the most recent year preceding the commencement of the case.

6.     The plan is deemed insufficient for the mortgage arrearages.
7.     Objections to confirmation of the plan were filed by PHH Mortgage Corporation.
8.     The debtor has failed to provide the trustee with certain of the required documentation, to wit, a real estate appraisal.
9.     At the aforesaid confirmation hearing held on June 28<sup>th</sup>, 2017, the debtor's

case demonstrated infeasibility and an inability to confirm.

9. The delay created by the debtor is prejudicial to creditors.

**WHEREFORE**, the trustee respectfully requests that the annexed order dismissing  
this case be signed.

/s/ Jeffrey L. Sapir  
**Jeffrey L. Sapir**

Sworn to before me this  
5<sup>th</sup> day of July, 2017  
/s/ Jody L. Kava

Jody L. Kava  
Notary Public, State of New York  
No. 02KA 4836806  
Qualified in Westchester County  
Term Expires: 10/31/17

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13  
Case No. 17-22520 RDD

**BENJAMIN P. BONGIOVI,**

Debtor(s)

----- -x

**AFFIDAVIT OF MAILING**

STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

Lois Rosemarie Esposito, being duly sworn, deposes and says:

I am not a party to the action herein, I am over the age of 18 years and reside in the County of Westchester, State of New York. On July 5<sup>th</sup>, 2017, I served a true copy of the within document, to the herein listed parties at the address(es) designated for that purpose, by mailing same in a properly sealed envelope with postage prepaid thereon, in an official depository of the United States Postal Service within the State of New York to the following:

**TO:** United States Trustee  
201 Varick Street #1006  
New York, New York 10014

Benjamin P. Bongiovi  
10 Ridgeview Avenue  
White Plains, New York 10606

Daniel W. Nieroda, Esq.  
320 Carleton Avenue # 6400  
Central Islip, New York 11722

PHH Mortgage Corporation  
c/o Shapiro DiCaro & Barak, LLC  
One Huntington Quadrangle #3N05  
Melville, New York 11747

PHH Mortgage Corporation  
One Mortgage Way  
MailStop SV01  
Mt. Laurel, New Jersey 08054

/s/ Lois Rosemarie Esposito  
**Lois Rosemarie Esposito**

Sworn to before me this  
5<sup>th</sup> day of July, 2017

/s/ Jeffrey L. Sapir  
Jeffrey L. Sapir  
Notary Public, State of New York  
No. 02SA8764500  
Qualified in Rockland County  
Term Expires: 12/31/18